

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

RADAMÉS ROSA-RODRÍGUEZ,

Plaintiff,

v.

CENTRO SAN CRISTÓBAL-VILLALBA,
et al.,

Defendants.

Civil No. 09-1056 (JAF)

OPINION AND ORDER

Plaintiff Radamés Rosa-Rodríguez brings this action against Defendants Centro San Cristóbal-Villalba ("Centro"), Dr. Ignacio J. Cruz-Pérez ("Cruz"), Dr. Yves Rivera-Hernández ("Rivera"), Admiral Insurance, CO., SIMED, and unknown individuals alleging violations of the Emergency Medial Treatment and Active Labor Act ("EMTALA"), 42 U.S.C. § 1395dd, and Puerto Rico tort law. Docket No. 10. Centro moves for partial summary judgment pursuant to Federal Rule of Civil Procedure 56(c). Docket No. 12. The motion is unopposed.

I.

Factual and Procedural Synopsis

We derive the following factual summary from Plaintiff's complaint and Centro's unopposed motion for summary judgment, statement of uncontested facts, and exhibit. Docket Nos. 10, 12.

Plaintiff, a resident of Texas and an American citizen, is the father of thirteen-year-old Nilshalys Rosa-Algarín ("Nilshalys"), who

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1 died on January 28, 2008. Defendant Centro is a Center of Diagnosis
2 and Treatment (CDT) located in Villalba, Puerto Rico, where Nilshalys
3 was treated before her death. Defendants Cruz and Rivera are
4 physicians under contract with Centro.

5 Plaintiff alleges that his daughter Nilshalys did not receive
6 appropriate medical treatment at Centro prior to her death.¹
7 Specifically, Plaintiff alleges that on January 27, 2008, Nilshalys
8 arrived at Centro with complaints of headache, sore throat, fever,
9 and diarrhea. A physician examined Nilshalys and discharged her with
10 a diagnosis of tonsilitis or cold and prescriptions for pain killers,
11 antibiotics, and other medications. No tests were performed. On
12 January 28, 2008, Nilshalys lost consciousness and was taken back to
13 Centro. She received cardiopulmonary respiration for approximately
14 half an hour until she was declared deceased. On June 26, 2008, an
15 autopsy revealed that Nilshalys died of Dengue Shock Syndrome.

16 On January 21, 2009, Plaintiff filed the present complaint in
17 federal district court. Docket No. 10. On April 13, 2009, Centro
18 moved for partial summary judgment. Docket No. 12.

19 **II.**

20 **Summary Judgment Standard under Rule 56(c)**

21 We grant a motion for summary judgment "if the pleadings, the
22 discovery and disclosure materials on file, and any affidavits show

¹ Plaintiff has not submitted any evidence of the following facts; it is not clear to what extent these facts are contested by Defendants.

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1 that there is no genuine issue as to any material fact and the movant
2 is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c).
3 A factual dispute is "genuine" if it could be resolved in favor of
4 either party, and "material" if it potentially affects the outcome of
5 the case. Calero-Cerezo v. U.S. Dep't of Justice, 355 F.3d 6, 19 (1st
6 Cir. 2004).

7 The moving party carries the burden of establishing that there
8 is no genuine issue as to any material fact; however, the burden "may
9 be discharged by showing that there is an absence of evidence to
10 support the nonmoving party's case." Celotex Corp. v. Catrett, 477
11 U.S. 317, 325, 331 (1986). The burden has two components: (1) an
12 initial burden of production, which shifts to the nonmoving party if
13 satisfied by the moving party; and (2) an ultimate burden of
14 persuasion, which always remains on the moving party. Id. at 331.

15 In evaluating a motion for summary judgment, we must view the
16 record in the light most favorable to the non-moving party. Adickes
17 v. S.H. Kress & Co., 398 U.S. 144, 157 (1970). However, the non-
18 moving party "may not rely merely on allegations or denials in its
19 own pleading; rather, its response must . . . set out specific facts
20 showing a genuine issue for trial." Fed. R. Civ. P. 56(e)(2).

21 III.

22 Analysis

23 A. Partial Motion for Summary Judgment

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1 Centro argues that the EMTALA claims against it should be
2 dismissed because CDTs in Puerto Rico are not included in the
3 statute's definition of "participating hospitals." Docket No. 12.

4 EMTALA requires participating hospitals to properly screen,
5 examine and, if need be, stabilize or treat emergency-room patients
6 in need of urgent medical care. See 42 U.S.C. § 1395dd. In order to
7 establish a violation under EMTALA, a plaintiff must show that
8 (1) the facility is a participating hospital, (2) the patient arrived
9 at the facility for treatment, and (3) the facility either (a) failed
10 to properly screen the patient or (b) discharged or transferred the
11 patient without stabilizing an emergency medical condition. See
12 Correa v. Hosp. S.F., 69 F.3d 1184, 1189 (1st Cir. 1995).

13 EMTALA defines a "hospital" as an institution primarily engaged
14 in providing medical services to inpatients. 42 U.S.C. § 1395x(e)(1),
15 (7). Under Puerto Rico law, CDTs are facilities that provide medical
16 services to ambulatory patients. 24 L.P.R.A. § 331a(A)(4) (2002).
17 CDTs are not participating hospitals covered under EMTALA. Rodríguez
18 v. Am. Int'l Ins. Co., 402 F.3d 45, 48-49 (1st Cir. 2005).

19 In view of the uncontested fact that Centro is an independent
20 CDT facility that provides services to ambulatory patients, Docket
21 No. 12, there is no factual issue as to Centro's liability under
22 EMTALA. Centro is not a participating hospital under EMTALA and is,
23 thus, entitled to judgment as a matter of law. See 42 U.S.C.
24 § 1395dd; Rodríguez, 402 F.3d at 48-49.

